

Consumer Financial Protection Circular 2022-01

System of *Consumer Financial Protection Circulars* to agencies enforcing federal consumer financial law

May 16, 2022

To promote consistency among enforcers and fair competition in the market, the Consumer Financial Protection Bureau (CFPB) is launching a new system to provide guidance to other agencies with consumer financial protection responsibilities on how the CFPB intends to enforce federal consumer financial law. The CFPB will issue *Consumer Financial Protection Circulars* to the broad set of government agencies responsible for enforcing federal consumer financial law.

The CFPB is the principal federal regulator responsible for administering the federal consumer financial laws, see 12 U.S.C. 5511, including the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices,¹ and eighteen other “enumerated consumer laws.”² However, the CFPB is not the only enforcer of these laws; enforcement responsibility is spread among a large set of state and federal government agencies. This includes, most notably, state attorneys general and state regulators³ and prudential regulators such as the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration.⁴ Some federal consumer financial laws are also enforceable by other federal agencies, including the Department of Justice, the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

¹ 12 U.S.C. 5536(a)(1)(B).

² 12 U.S.C. 5481(12).

³ 12 U.S.C. 5552.

⁴ See, e.g., 12 U.S.C. 5516(d), 5581(c)(2).

Consumer Financial Protection Circulars are policy statements advising parties with authority to enforce federal consumer financial law.

Given the broad variety of agencies responsible for enforcing federal consumer financial law, there is a risk that companies might encounter inconsistent enforcement strategies and approaches. One of the CFPB's five statutory objectives is to ensure federal consumer financial law is enforced consistently regardless of the status of a person as a chartered bank or nonbank.⁵ Many entities are subject to the jurisdiction of multiple agencies, and to maintain certainty of expectations for those companies with multiple regulators, it is important for state and federal government agencies to consistently enforce the laws that the CFPB administers. Consistency is also imperative to creating a level playing field between companies that compete in the same market but are subject to the jurisdiction of different enforcers. And *Consumer Financial Protection Circulars* will provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions.

As described more fully below, *Consumer Financial Protection Circulars* will be policy statements under the Administrative Procedure Act and will be released publicly to increase transparency for the benefit of the public and regulated entities. *Consumer Financial Protection Circulars* will provide background information about applicable law, articulate considerations relevant to the CFPB's exercise of its authorities, and advise other parties with authority to enforce federal consumer financial law. The Director of the CFPB will authorize issuance of each *Consumer Financial Protection Circular*, and the CFPB will publish them on its website and in the *Federal Register*.

The CFPB is beginning to identify a number of issues that would benefit from clear and consistent enforcement, and the CFPB intends to issue new *Consumer Financial Protection Circulars* to advance these goals. The CFPB strongly encourages enforcers of federal consumer financial law to contact the CFPB with suggestions for new *Consumer Financial Protection Circulars*. The CFPB is also interested in receiving feedback on any *Consumer Financial Protection Circulars* it issues. Enforcers, and the broader public, can also provide feedback and comments to Circulars@cfpb.gov.

⁵ 12 U.S.C. 5511(b)(4).

About *Consumer Financial Protection Circulars*

Consumer Financial Protection Circulars are issued to all parties with authority to enforce federal consumer financial law. The Consumer Financial Protection Bureau (CFPB) is the principal federal regulator responsible for administering federal consumer financial law, *see* 12 U.S.C. 5511, including the Consumer Financial Protection Act's prohibition on unfair, deceptive, and abusive acts or practices, 12 U.S.C. 5536(a)(1)(B), and 18 other "enumerated consumer laws," 12 U.S.C. 5481(12). However, these laws are also enforced by state attorneys general and state regulators, 12 U.S.C. 5552, and prudential regulators including the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration. *See, e.g.*, 12 U.S.C. 5516(d), 5581(c)(2) (exclusive enforcement authority for banks and credit unions with \$10 billion or less in assets). Some federal consumer financial laws are also enforceable by other federal agencies, including the Department of Justice and the Federal Trade Commission, the Farm Credit Administration, the Department of Transportation, and the Department of Agriculture. In addition, some of these laws provide for private enforcement.

Consumer Financial Protection Circulars are intended to promote consistency in approach across the various enforcement agencies and parties, pursuant to the CFPB's statutory objective to ensure federal consumer financial law is enforced consistently. 12 U.S.C. 5511(b)(4). *Consumer Financial Protection Circulars* are also intended to provide transparency to partner agencies regarding the CFPB's intended approach when cooperating in enforcement actions. *See, e.g.*, 12 U.S.C. 5552(b) (consultation with CFPB by state attorneys general and regulators); 12 U.S.C. 5562(a) (joint investigatory work between CFPB and other agencies).

Consumer Financial Protection Circulars are general statements of policy under the Administrative Procedure Act. 5 U.S.C. 553(b). They provide background information about applicable law, articulate considerations relevant to the Bureau's exercise of its authorities, and, in the interest of maintaining consistency, advise other parties with authority to enforce federal consumer financial law. They do not restrict the Bureau's exercise of its authorities, impose any legal requirements on external parties, or create or confer any rights on external parties that could be enforceable in any administrative or civil proceeding. The CFPB Director is instructing CFPB staff as described herein, and the CFPB will then make final decisions on individual matters based on an assessment of the factual record, applicable law, and factors relevant to prosecutorial discretion.